

## Message Text

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ACTION IO-13

INFO OCT-01 ARA-06 ISO-00 CIAE-00 DODE-00 PM-04 H-01  
INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15  
USIA-06 DHA-02 JUSE-00 SCA-01 SCS-03 /071 W  
-----142110Z 038333 /67

R 141940Z FEB 77

FM AMEMBASSY SANTIAGO  
TO SECSTATE WASHDC 3441  
INFO USMISSION USUN  
USMISSION GENEVA

C O N F I D E N T I A L SECTION 1 OF 2 SANTIAGO 1273

E. O. 11652: GDS  
TAGS: SHUM, CI, UN  
SUBJECT: HUMAN RIGHTS COMMISSION (HRC) - 33RD SESSION: CHILE QUESTION

REFS: (A) STATE 029494, (B) SANTIAGO 0487

1. SUMMARY. OUR BASIC JUDGMENT THAT HUMAN RIGHTS PRACTICES IN CHILE IMPROVED APPRECIABLY DURING 1976 (REF B) STILL OBZAINS. THE FUNDAMENTAL ELEMENT IN THIS PICTURE WAS THE RELEASE FROM JAIL OF 2700 PERSONS FORMERLY HELD ON POLITICAL/SECURITY GROUNDS. OF THE 800 PERSONS TILL INCARCERATED, MANY ARE FREE ON SOME SORT OF COGNIZANCE AND ONLY ONE IS HELD WITHOUT CHARGE (AND THE GOC HAS OFFERED TO TRADE JORE MONTES FOR THE CUBAN HUBER MATOS). ALSO IN 1976, REPORTS OF DISAPPEARANCES AND TORTURE WERE DOWN. IN 1977 THESE POSITIVE TRENDS CONTINUE; THE VICARIADE OF SOLIDARITY HAS NO REPORTS OF ARBITRARY DETENTIONS, DISAPPEARANCES OR TORTURE SO FAR THIS YEAR. ON THE OTHER HAND THE GOC MOVED AGAINST PERCEIVED ENEMIES OF THE STATE WITH RUTHLESS EFFICIENCY (UGARTE CASE) DURING 1976. THE AUTHORITARIAN GRIP OF THE JUNTA REMAINS BASICALLY UNIMPARIED IN 1977. END SUMMARY.

2. HUMAN RIGHTS VERSUS POLITICAL FREEDOMS. IN REF (A) THE DEPARTMENT LUMPS TOGETHER DISAPPEARANCES OF INDIVIDUALS, THE CLOSING  
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OF RADIO BALMACEDA AND HARASSMENT OF LABOR LEADERS AS PART OF THE HUMAN RIGHTS SITUATION. THE EMBASSY CONTINUES TO BELIEVE IT IS IMPORTANT FOR THE REASONS OUTLINED IN REF (B) TO MAINTAIN THE DISTINCTION BETWEEN HUMAN RIGHTS DEFINED AS PROTECTION OF THE SECURITY

OF THE INDIVIDUAL AND DUE PROCESS OF LAW (DISAPPEARANCES) AND POLITICAL FREEDOMS SUCH AS FREEDOM OF EXPRESSION (BALMACEDA),

UNION ELECTIONS, ETC. THIS CABLE UPDATES THE SITUATION WITH RESPECT TO HUMAN RIGHTS, POLITICAL FREEDOMS AND INSTITUTIONAL CHANGES.

3. HUMAN RIGHTS.

A. ARBITRARY DETENTIONS: ONLY ONE PERSON REMAINED DETAINED WITHOUT CHARGE UNDER STATE OF SIEGE AUTHORITY AFTER THE NOVEMBER 1976 MASS RELEASE: SENIOR COMMUNIST LEADER JORGE MONTES, WHO HAS BEEN OFFERED FOR EXCHANGE WITH CUBAN HUBER MAOTS. OTHERWISE, SO FAR THIS YEAR THE VICARIATE OF SOLIDARITY HAS REPORTS OF NO ARBITRARY DETENTIONS; IN A FEW CASES PERSONS HAVE BEEN PICKED UP BY SECURITY AGENTS, QUESTIONED A FEW HOURS, AND RELEASED.

B. TORTURE: WE HAVE NO REPORTS OF NEW TORTURE, BUT WE MUST ASSUME THAT PERSONS WHO HAVE "DISAPPEARED" (E.I., BEEN DETAINED ILLEGALLY) ARE SUBJECT TO ILL TREATMENT. IN THE NEW PATTERN OF DISAPPEARANCES, THE MISSING PERSON IS NOT SEEN BY ANYONE WHO SUBSEQUENTLY IS ABLE TO TESTIFY ABOUT HIM, AND HE DOES NOT TURN UP ALIVE. THE ONLY EXAMPLE OF THE KIND OF TREATMENT PRESUMABLY FACING MISSING PERSONS IS THAT OF COMMUNIST PARTY CENTRAL COMMITTEE MEMBER MARTA UGARTE, WHOSE MUTILATED BODY WAS FOUND ON A BEACHIN SEPTEMBER 1976 (REF SANTIAGO 9894) THE CIRCUMSTANCES OF HER CASE POINT TO HER ILLEGAL DETENTION IN EARLY AUGUST 1976, BUT THE GOC HAS NOT RECOGNIZED THE DETENTION.

C. DISAPPEARANCES: THE NUMBER OF DISAPPEARANCES DECLINED DURING 1976, AND SINCE JANUARY 1 THE VICARIATE OF SOLIDARITY LISTS NOW NEW CASE. THE GOC HAS NOT ACKNOWLEDGED HAVING DETAINED ANY PERSON CONSIDERED TO HAVE "DISAPPEARED" DURING 1976, BUT THE EMBASSY BELIEVES MANY MISSING PERSONS IN FACT WERE DETAINED ILLEGALLY. THE EVIDENCE IS LARGELY CIRCUMSTANTIAL, BUT THERE ARE A FEW CASES

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WHERE WE CAN SPEAK WITH MORE AUTHORITY. MARTA UGARTE IS A GOOD EXAMPLE. THAT OF SENIOR COMMUNIST LEADERS MARIO ZAMORANO DONOSO, BERNARDO ARAYA ZUELTA, AND ONOFRE JORGE MUÑOZ BOYTAYS (SANTIAGO 0834 AND SEPTEL) IS MUCH STRONGER. THE STRONGEST CASE, HOWEVER, IS THAT OF CARLOS HUMBERTO CONTRERAS MALUJE (SANTIAGO 0956 REPEATED TO GENEVA AND USUN, AND SEPTEL). THE SANTIAGO COURT OF APPEALS FOUND THAT CONTRERAS HAD BEEN DETAINED ILLEGALLY BY AGENTS OF THE DIRECTORATE OF NATIONAL INTELLIGENCE (DINA) IN NOVEMBER AND ORDERED THE INTERIOR MINISTER TO HAVE HIM SET FREE. THE MINISTER HAS REPLIED THAT CONTRERAS HAS NOT BEEN DETAINED, AND THE STAGE MAY BE SET FOR AN EXECUTIVE-JUDICIARY CONFRONTATION OF A TYPE NOT SEEN UNDER THE PRESENT GOVERNMENT.

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TO SECSTATE WASHDC 3442

INFO USMISSION USUN

USMISSION GENEVA

C O N F I D E N T I A L SECTION 2 OF 2 SANTIAGO 1273

4. POLITICAL FREEDOMS.

A. CLOSING OF RADIO BALMACEDA: ON JANUARY 28 THE GOC CLOSED INDEFINITELY THE CHRISTIAN DEMOCRATS' (PDC) RADIO BALMACEDA. THE JUSTIFICATION GIVEN WAS THE MANAGEMENT AND OPERATION OF THE RADIO BY A POLITICAL PARTY, WHICH WAS CONTRARY TO THE POLITICAL "RECESS" (I.E., THE BAN ON POLITICAL ACTIVITY) RULING IN CHILE SINCE THE COUP. THE RADIO'S APPEAL THROUGH THE MILITARY JUSTICE SYSTEM WAS REJECTED BY THE MILITARY APPEALS COURT ("CORTE MARCIAL") ON PROCEDURAL GROUNDS. ANOTHER APPEAL TO THE CIVIL COURT OF APPEALS WAS REJECTED FEBRUARY 11. WE CONSIDER THE GOVERNMENT'S LEGAL CASE WEAK, AND BELIEVE THAT THE DECISION TO CLOSE DOWN THE RADIO WAS BOLITICAL. CONCURRENTLY, THE RADIO IS BEING PUT UNDER GREAT PRESSURE BY ADMINISTRATIVE COURTS TO PAY OUSTANDING DEBTS, UNDER THE THREAT OF AUCTIONING ITS PROPERTY TO SATISFY THE CLAIMS.

B. HARASSMENT OF DEMOCRATIC LABOR LEADERS: THE GOC APPEARS TO BE MOVING SYSTEMATICALLY TO DESTROY WHAT REMAINS OF THE DEMOCRATIC LABOR MOVEMENT. SOME OF THE PRESSURE TECHNIQUES USED IN THIS EFFORT ARE: USING LEGAL TECHNICALITIES TO REPLACE FREELY ELECTED UNION LEADERS; ARBITRARILY CLOSING MEETINGS OF UNIONS WHICH DON'T SUPPORT THE GOVERNMENT; HOLDING SURPRISE ELECTIONS IN SITUATIONS IN WHICH OPPOSITION UNIONISTS CAN BE DEFEATED BY THE GOVERNMENT'S CANDIDATES; INDUCING UNIONS TO LEAVE THOSE FEDERATIONS

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CONTROLLED BY OPPOSITION UNION LEADERS FOR THE PURPOSE OF ELIMINATING THE QUORUMS OF THESE FEDERATIONS; AND BULLYBOARDS ON HEADQUARTERS OF UNIONS IN OPPOSITION TO THE GOVERNMENT. IT IS DIFFICULT OR IMPOSSIBLE TO PROVE THAT THIS KIND OF ACTIVITY IS ORGANIZED BY THE GOC BUT FEW DOUBT IT. IT MAY BE NOTED, OF COURSE, THAT DEMOCRATIC LABOR WOULD BE BETTER ABLE TO DEFEND ITSELF

IF SO MANY OF ITS RIGHTS AND THOSE IT ENJOYED WITH ALL CITIZENS WERE NOT SUSPENDED OR ABROGATED. IN THE LATTER CATEGORY, THE GOVERNMENT, IN PROMULGATING CONSTITUTIONAL ACT NO. THREE ON RIGHTS AND DUTIES IN SEPTEMBER 1976, SEVERELY LIMITED THE RIGHT TO STRIKE EXPLICITLY RECOGNIZED IN THE CONSTITUTION OF 1925.

5. INSTITUTIONAL CHANGE: CONSTITUTIONAL ACT III PROVIDED A NEW "RIGHT OF PROTECTION" -- A KIND OF HABEAS CORPUS IN WHICH THE CITIZEN MAY APPEAL TO THE JUDICIARY IN CASE OF VIOLATION OF RIGHTS SUCH AS PROPERTY, SPEECH, OR ASSOCIATION. THE RIGHT OF PROTECTION WAS RESTRICTED DURING PERIOD OF EMERGENCY, BUT A JANUARY 31 DECREE LAW (NO. 1684) REMOVED THE RIGHT ENTIRELY DURING EMERGENCIES. THE PROMULGATION OF THE CONSTITUTIONAL AMENDMENT COINCIDED WITH THE GOC'S CLOSING OF RADIO BALMACEDA, AND SOME SPECULATE THAT THE LAW WAS WRITTEN TO PREVENT THE RADIO FROM USING THE NEW RIGHT OF PROTECTION. WHETHER OR NOT THIS IS THE CASE, THE UNEXPLAINED AND ARBITRARY PROMULGATION OF THE LAW WAS INCONSISTENT WITH THE SOLEMNITY WITH WHICH THE GOC PROCLAIMED THE THREE CONSTITUTIONAL ACTS LAST SEPTEMBER. IT RAISES THE QUESTION AS TO THE JUNTA'S COMMITMENT TO THE RULE OF LAW EVEN LAWS PROMULGATED BY THE JUNTA. (DEPARTMENT REQUESTED TO PASS TO INFOR ADDRESSEES SANTIAGO  
A-24, POUCHED FEBRUARY 8.)

6. WE WILL INFOR GENEVA AND USUN ON PERTINENT MESSAGES DURING THE UNHRC SESSION.

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## Message Attributes

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